

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
Leon D. Borochoff, on behalf of himself and all	:
other similarly situated,	:
	:
Plaintiff,	:
	:
v.	:
	:
	:
GLAXOSMITHKLINE PLC, Dr. Jean-Pierre	:
Garnier, and Julian Heslop,	:
	:
Defendants.	:
-----X	

CIVIL ACTION

NO. 07-CIV-5574

**DEFENDANTS' MEMORANDUM REGARDING  
THE COURT'S APPOINTMENT OF LEAD PLAINTIFF**

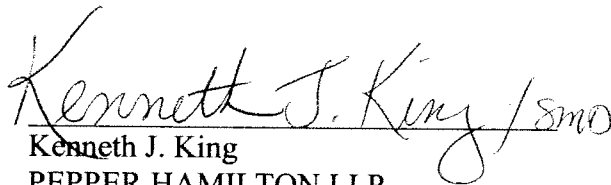
Defendants GlaxoSmithKline plc ("GSK"), Dr. Jean-Pierre Garnier, and Julian Heslop,<sup>1</sup> respectfully submit this memorandum regarding the Court's appointment of lead plaintiff pursuant to the Private Securities Litigation Reform Act ("PSLRA"). The PSLRA does not require defendants to weigh in on the question of who should serve as lead plaintiff, and defendants do not take a position on this issue. Nor, given the current procedural posture, is this the appropriate time for defendants to submit their positions regarding some of the important potential substantive issues that have been noted in the lead plaintiff applicants' respective briefing. Accordingly, defendants' silence should not be construed as a waiver of their rights to challenge the ultimate lead plaintiff's adequacy to serve as class representative, contest the procedural, jurisdictional and substantive validity of any lead plaintiff's claims on any ground, or oppose certification of a class in this action. *See, e.g., Koppel v. 4987 Corp.*, 1999 WL 608783, at \*8 (S.D.N.Y. Aug. 11, 1999) (recognizing that defendants' decision not to take a position on

<sup>1</sup> To date, defendant GlaxoSmithKline plc has not been properly served in this action and, therefore, reserves its right to seek dismissal on this and other grounds.

lead plaintiff issue did “not prejudice defendants’ capacity to contest plaintiff’s adequacy on a motion for class certification”). Nonetheless, in an abundance of caution, defendants submit this memorandum to expressly preserve their rights to litigate these important issues at the appropriate (later) stages of these proceedings.

Dated: New York, New York  
September 13, 2007

Respectfully submitted,

A handwritten signature in cursive script that reads "Kenneth J. King /smo". The signature is written in dark ink and is positioned above the printed name and address.

Kenneth J. King  
PEPPER HAMILTON LLP  
420 Lexington Avenue, Suite 2320  
New York, NY 10170-2399  
kingk@pepperlaw.com  
(212) 808-2700

Attorneys for Defendants